

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Wittmann et al.	Art Unit	: 2814
Serial No.	: 10/816,718	Examiner	: Thao X. Le
Filed	: April 2, 2004	Conf. No.	: 1015
Title	: FLEXIBLE MULTILAYER PACKAGING MATERIAL AND ELECTRONIC DEVICES WITH THE PACKAGING MATERIAL		

Mail Stop Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the action mailed February 27, 2007, applicants elect the invention of Group C, related to Figure 4. Claims 17-32 and 35-36 read on Figure 4.

This election is made with traverse for at least the following reasons.

The applicants note that every requirement to restrict has two aspects: (A) the claims are independent or distinct; and “(B) the reasons why there would be a serious burden on the examiner if restriction is not required” (MPEP § 808). The Examiner has failed to even suggest that there would be a serious burden to examine all four groups of species simultaneously, and the applicants believe that there would be no such burden, for at least the following reasons.

The applicants remind the Examiner that MPEP § 808.02 presents three reasons that the Examiner may select from when showing that there would be a serious burden: (A) separate classification of the inventions, (B) a separate status in the art when the inventions are classified together or (C) a different field of search. The Examiner has failed to meet the duty of showing that any one of these reasons applies to the four species listed in the action.

Furthermore, the applicants note that the Examiner has already examined the claims on their merits at least three times, including performing a search of the art (see PAIR records of 07-26-2005 “Examiner's search strategy and results”, 12-22-2005 “Examiner's search strategy and results”, and 08-08-2006 “Examiner's search strategy and results”). Therefore, to issue a

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requirement for restriction at this time is improper. Accordingly, applicants submit that there can be no serious burden for the Examiner to continue to examine all four species simultaneously.

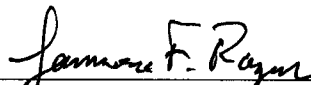
The applicants note that the instant traverse is based on the prosecution history of the application and the office's perceived burden of search, and is not an admission that any of the patentably distinct species are obvious variants of one another.

The applicants respectfully request that the restriction requirement be withdrawn. The applicants reserve the right to petition for reconsideration of the requirement for restriction under 37 C.F.R. § 1.144.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 3/27/07



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